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C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 001092

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SUBJECT: CONSTITUTIONAL COURT RULINGS CHANGE OUTCOME OF
LEGISLATIVE ELECTIONS

REF: JAKARTA 00977 AND PREVIOUS

Classified By: DepPol/C Stanley Harsha, reasons 1.4(b+d).

11. (C) Summary: Recent Constitutional Court decisions on electoral disputes are affecting the results of the Indonesian legislative elections. The court annulled the results of several regional races, and ordered vote re-runs in three areas. More controversially, it overturned the National Election Commission's (KPU) seat allocation process, which may mean that some important politicians lose their parliamentary seats. Though these decisions are not expected to directly influence the Presidential elections, they do improve the credibility of the legislative election results. This should reinforce public confidence in the electoral process as Indonesians prepare to head to the polls on July 8 for the second time this year. End Summary.

CONSTITUTIONAL COURT REVIEWS ELECTION DISPUTE CASES

12. (SBU) In the wake of the April 9 legislative elections, political parties filed 600 election dispute cases with the Constitutional Court. The Constitutional Court has from June 8 until June 25 to finish ruling on electoral dispute decisions. The resolution of these cases is affecting the outcome of the legislative elections.

LOST HIS SEAT

13. (SBU) Although the court has dismissed many of the cases it has reviewed alleging vote manipulation or improper campaigning, the court has found evidence of incorrect vote tallying in several regions. They revised regional election results accordingly, which has changed the outcome for some candidates. The court's decision in South Sulawesi Province, for example, meant that the original winner, a former deputy governor, lost his seat in the Regional Representatives Council (DPD).

VOTE RE-RUN ORDERED

14. (SBU) In addition to revising election results, the court has ordered three vote re-runs so far--more may follow. On June 9, the court ordered that elections be repeated within 90 days in South Nias in North Sumatra Province and in Yahukimo district, Papua. On June 18, the court also annulled elections held in Rokan Hulu, Riau Province. The KPU has decided to hold these re-votes simultaneously with the presidential election on July 8.

15. (SBU) In Nias and Riau, the court ruled that fraud had taken place. In Nias, vote rigging had occurred throughout the district. In Riau, many votes had not been counted. Meanwhile, in the Papuan district, the ballots simply did not

reach the isolated districts in time.

SEAT ALLOCATION PROCESS OVERTURNED

¶16. (SBU) The most controversial of the court's recent decisions overturned the KPU's regulation on the allocation of parliamentary seats. This allocation process determines what becomes of the leftover seats. In other words, those seats left empty because the candidates who won were from parties which did not meet the minimum 2.5% of the national vote required to get a seat in the DPR. The law concerning seat allocation called for those seats to be awarded to parties on the basis of votes or remainder votes. According to the International Foundation for Elections (IFES), the court ruling overturning this regulation was a powerful repudiation of the KPU's handling of the seat allocation process. This ruling was particularly sensitive because the subsequent court ordered recalculation may cost several important figures, including the current Speaker of the House, their parliamentary seats.

COURT RULINGS A POSITIVE SIGN

¶17. (SBU) The April 9 legislative elections and the subsequent court rulings are an important indication of Indonesians' increasing confidence in their democratic process. Through free press, an active civil society, and legal recourse, Indonesians are quick to demand corrections when the system is not working. The court's decision to hold vote re-runs are a first. These and other rulings complicate matters for the election administration and highlight the poor performance of the Election Commission. However, the

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International Foundation for Elections notes that the widely respected, neutral decisions of the Constitutional Court instill confidence that there is legal recourse where election fraud, non-performance or disputes take place. The decisions are a positive sign for the rule of law in Indonesia and are likely to increase the credibility of the electoral process.

HUME